

	U.S. ENVIRONMENTAL PROTECTION AGENCY Grant Agreement		GRANT NUMBER (FAIN): 96932601		DATE OF AWARD 08/20/2008
			MODIFICATION NUMBER: 0		
			PROGRAM CODE: WS		MAILING DATE 08/27/2008
			TYPE OF ACTION New		
RECIPIENT TYPE: Intermunicipal			Send Payment Request to: Las Vegas Finance Center, Fax (702) 798-2423		
RECIPIENT: Assoc of Bay Area Governments P.O. Box 2050 Oakland, CA 94604 EIN: 94-2832478			PAYEE: Executive Director Assoc of Bay Area Governments P.O. Box 2050 Oakland, CA 94604		
PROJECT MANAGER Jennifer Krebs P.O. Box 2050 Oakland, CA 94604 E-Mail: jkrebs@waterboards.ca.gov Phone: 510-622-2315		EPA PROJECT OFFICER Luisa Valiela 75 Hawthorne Street, WTR-3 San Francisco, CA 94105 E-Mail: Valiela.Luisa@epamail.epa.gov Phone: 415-972-3400		EPA GRANT SPECIALIST Maria Roverso Grants Management Office, MTS-7 E-Mail: roverso.maria@epa.gov Phone: 415-972-3573	
PROJECT TITLE AND DESCRIPTION Targeted Watershed – West Coast Estuaries Initiative for the California Coast This assistance agreement provides full federal EPA funding in the amount of \$996,495 to support monitoring and improving watershed conditions in Bay Area creeks and watersheds. Activities include restoring the Chelsea wetlands area and Pinole Creek along with disseminating monitoring data from a parking lot demonstration project in San Mateo County aimed at reducing pollutant loads from parking lot runoff. The total approved project cost is \$3,476,995.					
BUDGET PERIOD 10/01/2008 - 04/29/2011		PROJECT PERIOD 10/01/2008 - 04/29/2011		TOTAL BUDGET PERIOD COST \$3,476,995.00	
				TOTAL PROJECT PERIOD COST \$3,476,995.00	
NOTICE OF AWARD					
Based on your Application dated 03/21/2008 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$996,495. EPA agrees to cost-share <u>28.65%</u> of all approved budget period costs incurred, up to and not exceeding total federal funding of \$996,495. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.					
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)			AWARD APPROVAL OFFICE		
ORGANIZATION / ADDRESS U.S. EPA, Region 9 Grants Management Office, MTS-7 75 Hawthorne Street San Francisco, CA 94105			ORGANIZATION / ADDRESS U.S. EPA, Region 9 Water Division, WTR-1 75 Hawthorne Street San Francisco, CA 94105		
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY					
Digital signature applied by EPA Award Official Jane Diamond - Assistant Regional Administrator					DATE 08/20/2008

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FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 996,495	\$ 996,495
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$	\$ 0
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$ 2,390,000	\$ 2,390,000
Other Contribution	\$	\$ 90,500	\$ 90,500
Allowable Project Cost	\$ 0	\$ 3,476,995	\$ 3,476,995

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.439 - Targeted Watershed Initiative	Consolidated Appropriations Act 2007	40 CFR PART 31

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	0809W3E026	08	E1C	09L2	403B26E	4158	-	-	360,345
-	0809W3E026	08	E1	09L2	403B26E	4158	-	-	636,150
									996,495

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$221,496
2. Fringe Benefits	\$94,926
3. Travel	\$6,000
4. Equipment	\$0
5. Supplies	\$2,000
6. Contractual	\$0
7. Construction	\$0
8. Other	\$3,123,500
9. Total Direct Charges	\$3,447,922
10. Indirect Costs: % Base <u>See Indirect Cost Condition #8</u>	\$29,073
11. Total (Share: Recipient <u>71.35 %</u> Federal <u>28.65 %</u>.)	\$3,476,995
12. Total Approved Assistance Amount	\$996,495
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$996,495
15. Total EPA Amount Awarded To Date	\$996,495

Administrative Conditions

1. An interim Financial Status Report (FSR), Standard Form 269A (Rev. 7/97), covering the period from "project/budget period start date" to September 30 of each calendar year shall be submitted to the Grants Management Office, MTS-7, no later than December 31 of the same calendar year. **The initial FSR is December 31, 2009.** The final FSR covering the entire project period shall be submitted to the U.S. EPA Las Vegas Finance Center, PO Box 98515, Las Vegas, NV 89193-8515, within 90 days after the end of the project period according to the recipient's respective Code of Federal Regulations Part 30.52(a)(1)(iv) and 30.71(a), or Part 31.23(b) and 31.41(b) (as applicable). The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Financial Status Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement.

2. The recipient will provide timely reporting of cash disbursements and balances through annual submission (January - December) of a Federal Cash Transactions Report (SF272 and SF272A). The appropriate reports must be submitted to the Las Vegas Finance Center within 15 working days following the end of each calendar year. The recipient may access these forms and the instructions for submission at <http://www.epa.gov/ocfo/financeservices/payinfo.htm>.

3. Subawards
 - a. The recipient agrees to:
 - (1) Establish all subaward agreements in writing;
 - (2) Maintain primary responsibility for ensuring successful completion of the EPA-approved project (this responsibility cannot be delegated or transferred to a subrecipient);
 - (3) Ensure that any subawards comply with the standards in Section 210(a)-(d) of OMB Circular A-133 and are not used to acquire commercial goods or services for the recipient;
 - (4) Ensure that any subawards are awarded to eligible subrecipients and that proposed subaward costs are necessary, reasonable, and allocable;
 - (5) Ensure that any subawards to 501(c)(4) organizations do not involve lobbying activities;
 - (6) Monitor the performance of their recipients and ensure that they comply with all applicable regulations, statutes, and terms and conditions which flow down in the subaward;
 - (7) Obtain EPA's consent before making a subaward to a foreign or international organization, or a subaward to be performed in a foreign country; and
 - (8) Obtain approval from EPA for any new subaward work that is not outlined in the approved work plan in accordance with 40 CFR Parts 30.25 and 31.30, as applicable.

b. Any questions about subrecipient eligibility or other issues pertaining to subawards should be addressed to the recipient's EPA Project Officer. Additional information regarding subawards may be found at <http://www.epa.gov/ogd/guide/subaward-policy-part-2.pdf>. Guidance for distinguishing between vendor and subrecipient relationships and ensuring compliance with Section 210(a)-(d) of OMB Circular A-133 can be found at <http://www.epa.gov/ogd/guide/subawards-appendix-b.pdf> and <http://www.whitehouse.gov/omb/circulars/a133/a133.html>.

c. The recipient is responsible for selecting its subrecipients and, if applicable, for conducting subaward competitions.

4. The recipient shall comply with the Single Audit Act and the reporting requirements set forth in OMB Circular A-133.

5. The recipient agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises in procurement under assistance agreements as set forth in 40 CFR Part 33. The EPA DBE rule can be accessed at <http://www.epa.gov/osbp>. In addition, the recipient agrees to make good faith efforts whenever procuring construction, equipment, services and supplies under an EPA assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply with 40 CFR Section 33.301. Records documenting compliance with the six good faith efforts shall be retained.

The recipient accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA by the **CA State Water Resources Control Board** follows:

	MBE	WBE
Construction	24%	6%
Equipment	22%	26%
Services	30%	31%
Supplies	29%	20%

By signing this financial assistance agreement, the recipient is accepting the fair share objectives/goals stated above and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as **CA State Water Resources Control Board**.

Pursuant to 40 CFR Section 33.404, the recipient has the option to negotiate its own MBE/WBE fair share objectives/goals. If the recipient wishes to negotiate its own MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The submission of proposed fair share goals with the supporting analysis or disparity

study means that the recipient is not accepting the fair share objectives/goals of another recipient. The recipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study to Joe Ochab, MTS-1, the Regional MBE/WBE Coordinator, within 120 days of acceptance of the financial assistance award. EPA will respond to the proposed fair share objectives/goals within 30 days of receiving the submission. If proposed fair share objectives/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objectives/goals are submitted.

A recipient of a Continuing Environmental Program Grant or other annual grant agrees to create and maintain a bidders list. A recipient of an EPA financial assistance agreement to capitalize a revolving loan fund also agrees to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Refer to 40 CFR Section 33.501 (b) and (c) for specific requirements and exemptions.

6. The recipient agrees to complete and submit to the Grants Management Office, MTS-7, a MBE/WBE Utilization Report (EPA Form 5700-20A), within 30 days after the end of the Federal fiscal year; i.e., by October 30 of each calendar year. Negative reports are required. Only procurements with certified MBE/WBEs are counted towards a recipient's MBE/WBE accomplishments. A final MBE/WBE report must be submitted within 90 days after the end of the project period. Your grant cannot be officially closed without all MBE/WBE reports. EPA Form 5700-52A may be obtained from the EPA Office of Small Business Program's Home Page on the internet at www.epa.gov/osbp.

7. Payment to consultants. Per 40 CFR **Part 31.36(j)**, EPA's participation in the salary rate (excluding overhead and travel) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule, to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills and if the terms of the contract provide the recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. As of January 1, 2008, the rate is \$571.12 per day and \$71.39 per hour. This rate does not include overhead or travel costs and the recipient may pay these in accordance with its normal travel practices.

Subagreements with firms or individuals for services which are awarded using the procurement requirements in 40 CFR Parts 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR Part 31.36(j)(2) or Part 30.27(b).

8. Indirect costs are authorized under this assistance agreement in accordance with the cost principles of 2 CFR 230, 220, or 225 (formerly OMB Circular A-122, A-21, or A-87) and the indirect cost rate **cost** allocation plan completed by the recipient. The

recipient agrees to retain and make available to EPA a copy of the indirect cost rate **cost** allocation plan upon request, if necessary.

9. The recipient agrees to comply with Title 40 CFR Part 34, *New Restrictions on Lobbying* . The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000, and require that subrecipients submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

10. The recipient shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The recipient shall abide by its respective 2 CFR 220, 225, or 230 (formerly OMB Circular A-21, A-87, or A-122), which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities.

11. In accordance with the policies set forth in EPA Order 1000.25 and Executive Order 13423 (Strengthening Federal Environmental, Energy and Transportation Management dated January 24, 2007), the recipient shall use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

Any State agency or agency of a political subdivision of a State shall also comply with the requirements set forth in Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962), which requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247. Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more.

12. The recipient agrees to ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.

13. The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 40 CFR 36.200 - 36.230. Additionally, in accordance with

these regulations, the recipient organization must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provisions set forth in Title 40 CFR 36.300.

The consequences for violating this condition are detailed under Title 40 CFR 36.510. Recipients can access the Code of Federal Regulations (CFR) Title 40 Part 36 at http://www.access.gpo.gov/nara/cfr/waisidx_06/40cfr36_06.html.

14. The recipient shall fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons)." The recipient is responsible for ensuring that any lower tier covered transaction as described in Subpart B of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. The recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. The recipient acknowledges that failing to disclose the information as required at 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Recipient may access the Excluded Parties List System at www.epls.gov. This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

15. This award includes **\$2,480,500** of non-federal third party contributions. Third party contributions counting towards satisfying a cost sharing or matching requirement must be verifiable from the records of grantees and subgrantees. As applicable, these records must reflect how the value is placed on third party contributions. The value of third party contributions must be applicable to the period to which the cost sharing or matching requirement apply (**40 CFR Part 31.24 -OR- Part 30.23**).

Programmatic Conditions

P1. Environmental Measurements. This grant includes the performance of environmental measurements. A Quality Assurance Project Plan will be drafted and submitted by ABAG/SFEP for review by the EPA Region 9 Quality Assurance Office. The recipient should consult with the Region 9 Quality Assurance Office to determine what type of QA documentation would be most appropriate and what QA guidance should be followed. ABAG/SFEP will respond to any comments on the plan within 120 days of receipt. The QA Plan must be approved by the EPA Project Officer, the Region 9 Quality Assurance Manager, and the recipient's Quality Assurance Officer before measurement activities are undertaken. Emergency measurements may be taken without a QA Plan being prepared if the Region 9 Quality Assurance Manager agrees that the nature of the data collection activity required due to the emergency warrants an

exemption. Contact the QA Office at 415-972-3411.

P2. All new data generated under this assistance agreement must be submitted to EPA. A copy of all data files and maps in hardcopy, on disk or on tape which were acquired or developed for the execution of this project by applicant or their contractor must be turned over to EPA with the final report.

P3. Reporting. The recipient shall submit quarterly progress reports to the EPA Project Officer within 30 calendar days after the end of each Federal fiscal quarter (January 30, April 30, July 30, and October 30). These reports should include a discussion of the activities conducted during the quarter and progress towards milestones, environmental outcomes, problems encountered and their resolution, and activities planned for the next quarter. In addition, quarterly reports should identify any special EPA assistance needed, as well as provide a financial accounting of costs incurred during the quarter and cumulative project costs by task.

Within 90 days of the end of the project period, the recipient must submit a final report documenting project activities over the entire project period and the recipient's achievements with respect to the project's purposes and objectives.

P4. The recipient is required to attend at a minimum one annual National Targeted Watersheds Grantee Conference during the award period.

P5. The recipient should publicly acknowledge the West Coast Estuaries Initiative Grants (part of the National Targeted Watersheds Grants) funds as the funding vehicle for the projects when the grantee is asked by public entities, federal agencies or state or local agencies about the projects and on-going results.